

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

&

THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

THURSDAY, THE 11TH OCTOBER 2007 / 19TH ASWINA 1929

LA.App..No. 553 of 2003(C)

LAR.2/1993 of SUB COURT, THIRUVALLA

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APPELLANT: CLAIMANT

LEELAMMA MANI, PRATHEEKSHA, T.C. 5./154,
PIPE LINE, PEROORKAD P.O., THIRUVANANTHAPURAM

BY ADV. SRI.S.SREEKUMAR

RESPONDENTS: RESPONDENTS

1. THE STATE OF KERALA, REPRESENTED BY
DISTRICT COLLECTOR, PATHANAMTHITTA.
2. THIRUVALLA MUNICIPALITY, REPRESENTED
BY THE MUNICIPAL COMMISSIONER, THIRUVALLA

BY ADV. SRI.P.R.VENKETESH
GOVERNMENT PLEADER SMT.K.R.DEEPA.

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD
ON 11/10/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

KURIAN JOSEPH & HARUN-UL-RASHID, JJ.

L.A.A. NO.553 OF 2003

Dated 11th October, 2007.

J U D G M E N T

Kurian Joseph, J.

This appeal is directed against the judgment and decree in LAR 2/1993 on the file of the Sub Court, Thiruvalla. The acquisition is for the purpose of formation of B1-B1 road and commercial area in the Thiruvalla Municipality. It needs no elaborate discussion to hold that the property is situated at a commercially important area. Several public institutions are also around the locality and that is not disputed also. The reference court, relying on the judgment in LAR 13/92 in respect of an adjacent property fixed the land value at the rate of Rs.41,496/- per Are. According to the appellant, the property should fetch at the rate of Rs.1 lakh per cent. It is submitted that as far as the claimant in LAR.13/92 is concerned, he was benefited by the acquisition, since out of a larger area, a portion of 1.09 Ares alone was acquired. It is further submitted that the appellant's property is more closely situated to the town. Still further it is submitted that the entire extent of 18.20 Ares was acquired and hence there is no justification in following the land value in

respect of an acquisition where only a portion was acquired and the rest of the property was benefited by the acquisition. Learned Government Pleader submits that the acquired property in LAR 13/92 is immediately south to the appellant's property. But the fact remains that the entire property of the appellant was acquired, whereas the claimant in LAR 13/92 is benefited by the acquisition, since larger area is left behind.

2. Appellant has a very serious contention that Exts.A1 to A3 documents were discarded for the only reason that vendor and vendee were not examined. It is now settled law that for that reason alone, the documents cannot be discarded. Examination of vendor and vendee would certainly prove the circumstances under which the transactions took place. But for the only reason that they are not examined, if the value could be otherwise examined on the basis of the documents, there is no reason why the documents should not be taken into consideration while fixing the land value. Learned Government Pleader submits that those are documents pertaining to a post notification period. It is also submitted that there is no discussion at all regarding the comparability or similarity of the acquired property with that of Exts.A1 to A3. Precisely for such reasons, the matter should go

back to the reference court. We accordingly set aside the judgment under appeal and remit the matter to the reference court. The parties shall appear before the reference court on 19.11.2007 and the reference court shall dispose of the case in the light of the observations contained in this judgment, within another four months. In the event of any enhancement, we make it clear that the appellant shall also be entitled for statutory benefits including interest on solatium since that being the settled position as of now (See the decision reported in **Sunder v. Union of India** (2001(3) KLT 489 SC). Since the case is remanded, we make it clear that in view of the entitlement of the appellant for refund, there shall be no levy of court fee from the appellant.

KURIAN JOSEPH, JUDGE.

HARUN-UL-RASHID, JUDGE.

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**KURIAN JOSEPH &
HARUN-UL-RASHID, JJ**

L.A.A. NO.553 OF 2003

J U D G M E N T

Dated 11th October, 2007.